

### **REMARKS**

Favorable reconsideration and allowance of the present application is respectfully requested.

The recent Office Action indicates that Applicants' previous response did not address the rejection of dependent claim 6 under 35 U.S.C. §103(a) over No. 2001/0056246 to Rodriguez-Fernandez or U.S. Patent No. 3,507,269 to Berry in view of U.S. Patent Application Publication No. 2003/0082237 to Cha, et al.<sup>1</sup> As correctly noted by the Examiner, neither Rodriguez-Fernandez nor Berry discloses a breath testing device containing nanoparticles. Nevertheless, the recent Office Action appears to rely on Cha, et al. for the teaching of a color change indicator containing nanoparticles in a breath testing device.

Applicants respectfully submit, however, that no suggestion whatsoever exists to combine the nanoparticles of Cha, et al. with the particular systems for controlling halitosis described in Rodriguez-Fernandez or Berry. For instance, Cha, et al. discloses many possible uses of its nanoparticles, such as in drug delivery, gene delivery, medical imaging, ceramics, paints, sun tan lotion, perfumes, pesticides, fungicides, fertilizers, food products, etc. (p. 7). Among the multitude of possible uses, Cha, et al. only cursorily mentions that the use of sensor devices containing encapsulated fluorescent dye molecules or as a chemical sensor/detector. [0080]. One of ordinary skill in the art

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<sup>1</sup> As an aside, this rejection was not technically presented in the Office Action. Specifically, claim 6 was instead rejected over Rodriguez-Fernandez or Berry in view of U.S. Patent No. 3,615,478 to Hoshino and further in view of Cha, et al. Hoshino was relied on solely for the teaching of Michler's hydrol as a color indicator. Because independent claims 23, 46, and 49 do not require Michler's hydrol, however, this rejection was not addressed in Applicants' previous response.

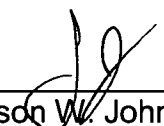
simply would not have found it obvious to use in the nanoparticles of Cha, et al. in a breath testing device as set forth in the present claims.

Thus, for at least the reasons set forth above, Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Nasser is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully requested,

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